EXHIBIT A

UNITED STATES TAX COURT

WASHINGTON, DC 20217

RODNEY M. TOOTHACRE, Petitioner	)	
v.	)	Docket No. 26357-06L.
COMMISSIONER OF INTERNAL REVENUE, Respondent	)	

ORDER OF DISMISSAL

This case was submitted fully stipulated under Rule 122, Tax Court Rules of Practice and Procedure, for determination of the following issues:

(1) whether petitioner's Federal income tax liabilities for 1993 and 1994 were discharged in bankruptcy;

(2) whether the period of limitation on collection after assessment (limitation period) of petitioner's Federal income tax liabilities for the years in issue has expired;

(3) whether a valid lien against petitioner's personal residence exists; and

(4) whether any prohibited ex parte communication took place in this case, and, if so, what remedy would be appropriate.

With respect to the first issue, petitioner's liabilities were not discharged because the returns for 1993 and 1994 were due within 3 years of September 8, 1995, the date on which the petition in bankruptcy was filed. See 11 U.S.C. sec. 507(a)(7)(A)(I).

With respect to the second issue, the period of limitations on collection after assessment was tolled during the pendency of the bankruptcy proceeding, during the pendency of petitioner's offer-in-compromise, and during the pendency of this action. See sections 6503(h)(2), 6331(k)(1)(A) and 6330(e). Thus the period of limitations has not expired.

With respect to the third issue, in the answering brief respondent has conceded that the lien sustained in the notice of determination that is the basis for this proceeding should not have been sustained, and respondent represents that the lien has

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been withdrawn. Respondent contends that the issue is not moot because a new Notice of Federal Tax Lien may be sent in the future. Our jurisdiction in this case, however, is only to review the notice of determination that the (now withdrawn) lien was appropriate. Section 6330(d). Withdrawal of the lien terminates the collection action that is the subject of the notice of determination and our jurisdiction. See sections 6320(c) and 6330(d). Petitioner has not addressed the mootness issue. We conclude that this case should be dismissed on the ground of mootness since the lien that is the subject of the notice of determination upon which this case is based has been withdrawn.

With respect to the fourth issue, the record does not support petitioner's claim that prohibited ex parte communications occurred. In any event, that dispute does not affect the resolution of this case.

Upon due consideration and for cause, it is hereby

ORDERED that this case is dismissed as moot.

(Signed) Mary Ann Cohen
Judge

ENTERED: JUN 19 2008